

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
TEXARKANA DIVISION

UNITED STATES OF AMERICA

PLAINTIFF/RESPONDENT

v. Criminal No. 07-40003-2

MICHAEL E. BROWN

DEFENDANT/MOVANT

**MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

On March 7, 2012, Defendant filed a Motion for Judicial Review of the Government's Failure to File a Rule 35(b) Motion on Behalf of Defendant. (Doc. 86). The Government filed a Response on March 28, 2012. (Doc. 88). This matter was referred to the undersigned on April 9, 2012.

On May 4, 2012, Defendant filed what has been construed as a Motion to Dismiss his Motion for Review. (Doc. 89). By Order dated May 4, 2012, the Court directed Defendant to file an amended motion to dismiss as he had not signed his Motion and gave Defendant until June 4, 2012, to comply with the Order. (Doc. 90). To date, Defendant has not filed an amended motion.

While Defendant has not filed an amended signed motion to dismiss, Defendant has not otherwise evidenced any intent to proceed with his Motion for Judicial Review. Based on the forgoing, the undersigned hereby recommends that Defendant's Motion to Dismiss (Doc. 89) be **GRANTED** and that Defendant's Motion for Judicial Review of the Government's Failure to File a Rule 35(b) Motion on Behalf of Defendant (Doc. 86) be **DISMISSED**.

The parties have fourteen days from receipt of our report and recommendation in which to file written objections pursuant to 28 U.S.C. § 636(b)(1). The failure to file timely objections may result in waiver of the right to appeal questions of fact. The parties are reminded that objections must be both timely and specific to trigger de novo review by the district court.

DATED this 18th day of July 2012.

/s/ Erin L. Setser

HON. ERIN L. SETSER  
UNITED STATES MAGISTRATE JUDGE